

## Message Text

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ORIGIN L-03

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H-02 /047 R

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FM SECSTATE WASHDC

TO AMEMBASSY MOSCOW IMMEDIATE

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E.O. 11652: N/A

TAGS: PGOV, UR

SUBJECT: RUSSIAN EXTRADITION LAWS

1. DURING RECENT TESTIMONY BEFORE HOUSE SUBCOMMITTEE ON CRIMINAL JUSTICE IN SUPPORT OF LEGISLATION TO IMPLEMENT UN CONVENTION ON PROTECTION OF DIPLOMATS, SUBCOMMITTEE CHAIRMAN REQUESTED LEGAL ADVISER TO PROVIDE INFORMATION CONCERNING STATUS OF SOVIET LAW ON EXTRADITION. USSR RATIFIED CONVENTION JANUARY 15, 1976. ARTICLE 8 OF CONVENTION PROVIDES THAT CONVENTION SHALL HAVE THE EFFECT OF INCLUDING AS EXTRADITABLE OFFENSES IN EXISTING BILATERAL TREATIES BETWEEN STATE PARTIES THOSE CRIMES SPECIFIED UNDER THE CONVENTION. ARTICLE 8 ALSO CONFERS A LEGAL BASIS FOR EXTRADITION IN RESPECT TO THOSE CRIMES IN THE ABSENCE OF A BILATERAL EXTRADITION TREATY, WHERE EXTRADITION MUST BE CONDITIONED UPON THE EXISTENCE OF A TREATY; HOWEVER, THIS IS PERMISSIVE RATHER THAN MANDATORY.

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SINCE THERE IS NO AFFIRMATIVE OBLIGATION TO EXTRADITE

UNDER THE CONVENTION, AND IN THE ABSENCE OF A BILATERAL EXTRADITION TREATY, U.S. LAW WOULD PROHIBIT EXTRADITION. THUS, IN A SITUATION IN WHICH AN ALLEGED OFFENDER IS FOUND IN U.S. TERRITORY AND USSR REQUESTS HIS EXTRADITION FOR A CRIME DESIGNATED UNDER THE CONVENTION, WE WOULD BE

POWERLESS TO HONOR THAT REQUEST, BUT WOULD BE OBLIGED TO PROSECUTE THE OFFENDER.

2. THE QUESTION WE HAVE BEEN ASKED TO ADDRESS BY THE SUB-COMMITTEE IS WHETHER OR NOT THE USSR WOULD HAVE THE AUTHORITY UNDER ITS DOMESTIC LAW, IN THE ABSENCE OF A BILATERAL TREATY, TO EXTRADITE SUCH AN ALLEGED OFFENDER TO THE U.S. PURSUANT TO A U.S.G. REQUEST. DOES EMBASSY HAVE KNOWLEDGE OF (1) WHETHER USSR IS REQUIRED BY ITS DOMESTIC LAW TO EXTRADITE ONLY PURSUANT TO A BILATERAL EXTRADITION TREATY, OR (2) WHETHER USSR CAN EXTRADITE PURSUANT TO ARTICLE 8 OF THE CONVENTION, IN INSTANCES WHERE THERE IS NO BILATERAL TREATY IN EFFECT? IN VIEW OF SENSITIVITY OF SEVERAL CURRENT EXTRADITION ISSUES, DEPT FELT THAT APPROACH TO SOVIETS WOULD NOT BE ADVISABLE AND REPLY SHOULD BE MADE ON BASIS OF OPINION WITHIN EMBASSY RESOURCES.

3. DEPT WILL BE GRATEFUL FOR AN EXPEDITIOUS REPLY IN ORDER TO ENABLE US TO PROVIDE REQUESTED ANSWER FOR THE RECORD.

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## Message Attributes

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